

BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C. 20554

In the Matter of)
)
Amendment of Section 73.202(b),) MM Docket No. 99-322
Table of Allotments,) RM-9762
FM Broadcast Stations.)
(Chillicothe and Ashville, Ohio))

To: John A. Karousos, Chief
Allocations Branch
Policy and Rules Division
Mass Media Bureau

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OFFICE OF THE SECRETARY

COMMENTS AND OBJECTIONS OF JOINT PARTIES

SAME CHANNEL . . . SAME STATION . . . SAME GOAL: make Station WKKJ(FM) a Columbus radio station. Once again the licensee of Station WKKJ(FM), licensed since 1961 at Chillicothe, Ohio, seeks the reallocation of Channel 227B from the larger community of Chillicothe (1990 U.S. Census pop. 21,923) to the significantly smaller community of Ashville (1990 U.S. Census pop. 2,254). This time around, Secret Communications II, L.L.C. ("Secret"), the current licensee of Station WKKJ(FM), has carefully selected Ashville, clearly not for any census population advantage, but rather for its much closer proximity to Columbus (20 miles vs. 47 miles) than Chillicothe.¹ With Ashville as its "pitstop," absent intervention by the Federal Communications Commission ("FCC" or "Commission") as mandated herein, it is no secret that Secret is charting its own course in continuing the efforts of Station

¹ Attached as Appendix A hereto are driving directions from Ashville to Columbus and from Chillicothe to Columbus, reflecting that Ashville is approximately 20 miles south of Columbus and Chillicothe is approximately 47 miles south of Columbus. Source: 1999 Mapquest.com, Inc./NavTech.

WKKJ(FM)'s previous owner to transform Station WKKJ(FM) into a "major market" radio station.

By Notice of Proposed Rule Making, DA 99-2356, released October 29, 1999 (hereinafter "NPRM"), the Commission, by delegated authority, invited interested parties on or before December 20, 1999, to provide comment on Secret's previously filed petition for rule making, seeking reallocation of Channel 227B from Chillicothe to Ashville. At the Commission's direction and invitation, North American Broadcasting Co., licensee of Stations WMNI(AM) and WBZX(FM), Columbus, Ohio, WLCT Radio Incorporated, licensee of Stations WCLT(AM)-FM, Newark, Ohio, and Franklin Communications, Inc., licensee of Stations WVKO(AM) and WSNY(FM), Columbus, Ohio (hereinafter collectively "Joint Commenters") are providing comment herein to assist the Commission in fulfilling its mandate of determining whether Secret's proposal complies with the letter and spirit of the Commission's allocation priority policies and rules developed over the years. At the end of this examination, Joint Commenters believe it will be abundantly clear that the Secret proposal is nothing more than the most recent example of the manipulation of the Commission's allocation policies and rules by a party far beyond what the drafters intended. SAME STATION . . . SAME CHANNEL . . . SAME GOAL . . . REQUIRES THE SAME RESULT: As the Commission did with the failed effort of the then licensee of Station WKKJ(FM) to reallocate Channel 227B from Chillicothe to a community located in the Columbus Urbanized Area (Reynoldsburg), the Commission must also reject the Secret proposal as contrary to

the public interest.

THE SECRET PROPOSAL

In its petition, Secret outlines several factors which it believes support its proposal. Each factor which Secret states it satisfies or is otherwise not material, if taken independently and/or at face value, could give the impression that Secret's petition has merit. For example, there is no doubt that the Commission has found communities smaller in population than Ashville to have the requisite characteristics of a community to be awarded an allocation. Nor do Joint Commenters dispute that with a site restriction included in the *NPRM*, which site is the site specified in WKKJ(FM)'s outstanding construction permit (FCC File No. BPH-981201IA), short-spacing to Station WAKW, Cincinnati, will be maintained and not exacerbated, consistent with the policies enunciated in the Commission's decision in *Newnan and Peachtree City, Georgia*, 7 FCC Rcd 6307 (1992). And so on. But to fulfill its mandate to serve the public interest, the Commission must look closer.

Throughout its proposal, Secret states that in seeking the reallocation it is not proposing a change to its transmitter site location, which for Secret's purposes, has been determined to be a site for which Secret holds an outstanding construction permit (FCC File No. BPH-981208IA, as proposed to be modified by BMPH-990820IF). The Commission is given the impression that Secret intends to limit its Ashville proposal to its proposed construction permit site. Yet at the very end of its proposal, no commitment is

provided that Secret will in fact restrict its proposed Ashville operation to its construction permit site let alone has Secret evidenced an intent to actually use its construction permit site, whether or not its reallocation proposal is granted.

Incredibly, in support of its satisfaction of the fourth allotment priority (Secret petition, p. 7), Secret states that "[b]ecause no transmitter site relocation is proposed, no loss area will result that would cause listeners to lose any broadcast reception services." What Secret fails to tell the Commission is that the foregoing statement is only accurate if Secret proposes no change in transmitter location from that which is set forth in its construction permit site. Yet despite having the construction permit issued for several months, Secret has not implemented its construction permit site in connection with its current operation at Chillicothe, which has had Station WKKJ(FM) licensed to it since 1961.

And why is that? In August, 1999, Secret submitted a minor modification application to its construction permit site which changes the technical parameters slightly but does not change the actual transmitter site location from that which is specified in the outstanding construction permit. As the statement of Joint Commenters' engineering consultant reflects, the current construction permit site, however, provides a 70 dBu signal over only 59% of the city of Chillicothe, Station WKKJ(FM)'s community of license, in violation of Section 73.315 of the Commission's Rules (which requires at least 80% coverage). See Technical

Statement of William G. Brown, Bromo Communications, Inc., attached hereto as Appendix B. Obviously, if the construction permit site does not currently cover the requisite and a significant portion of the current community of license (not to mention complying with the FCC's rules), there would most definitely be loss of service, for which Secret has not provided any support.² As the Commission has stated: "[T]he public has a legitimate expectation that existing service will continue, and this expectation is a factor we must weigh independently against the service benefits that may result from reallocating a channel from one community to another, regardless of whether the service removed constitutes a transmission service, a reception service or both." *See In the Matter of Amendment of the Commission's Rules Regarding Modification of FM and TV Authorizations to Specify a New Community of License*, 4 FCC Rcd 4870, 4873 (1989), *recon. granted in part*, 5 FCC Rcd 7094, 7097 (¶ 19) (1990). Of course, Secret is able to obfuscate the "no loss of service argument" by giving the impression that no proposed transmitter site relocation means that Chillicothe will continue to receive service from its predicted authorized facilities (see Exhibit A to Secret petition, Engineering Statement), when that is not the case.

Perhaps, the final telltale sign of Secret's long-term strategy is Secret's carefully crafted Declaration of Intent at

² Joint Commenters submit that the Commission consider rescinding the construction permit site authorization, dismiss the minor modification application and terminate the entire Ashville rule making proceeding based on Secret's flawed proposal.

page 7 of its petition. Secret declares as follows: "If Secret's proposal set forth herein is adopted, Secret intends to promptly file the appropriate application for Channel 227B at Ashville, Ohio. Since no other change in WKKJ's facilities is involved in *this Petition*, no separate commitment regarding construction is required (further emphasis added)." Again, Secret has not only failed to commit to restrict its proposed operation at Ashville to its currently authorized (though flawed) construction permit site, it has given itself every opportunity to avoid such a commitment by leaving the door open with its vague declaration. Absent restraint by the Commission in the instant rulemaking proceeding, given the long history of parties seeking to transform Station WKKJ(FM) into a "major market" radio station, there is every reason to believe that Secret will avail itself of any slight window it believes would provide an even stronger signal over the Columbus Urbanized Area. Indeed, if not restrained by the Commission as requested by Joint Commenters herein, Secret will be able to file a minor modification application seeking permission to provide 70 dBu coverage over **100%** of the Columbus Urbanized Area! See Technical Statement of William G. Brown, Bromo Communications, Inc., attached hereto as Appendix C. This is the kind of gamesmanship about which the Commission was warned when it adopted its move-in policies and one that warrants its close scrutiny herein. See *Modification, supra*, 4 FCC Rcd at 4873 (¶ 27).

PRIOR UNSUCCESSFUL ATTEMPT TO REALLOCATE
STATION WKKJ(FM) FROM CHILLICOTHE TO REYNOLDSBURG

To understand the background in which Secret seeks to amend

the Table of Allotments to its advantage, the Commission need only look to recent events leading up to Secret's acquisition of Station WKKJ(FM) and subsequent embarkment on the road to abandoning its long-standing community of license and transforming Station WKKJ(FM) into a Columbus radio station.

In 1990, the Commission issued a *Notice of Proposed Rule Making*, in *In the Matter of Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations (Chillicothe, Forest, Lima, New Washington, Peebles and Reynoldsburg, Ohio)*, 5 FCC Rcd 3806 (1990) wherein Pearl Broadcasting, Inc. ("Pearl"), the former licensee of Station WKKJ(FM), sought reallocation of Channel 227B from Chillicothe to Reynoldsburg, a community some 10 miles from Columbus, located in the Columbus Urbanized Area. Various parties objected to the Pearl proposal (including the Joint Commenters) and the Commission found the rule making to be violative of the policies it enunciated in *Newnan and Peachtree City, Georgia*, *supra*. *Id.*

Based on *Newnan and Peachtree City, Georgia, supra*, the Commission will permit a proposed change of community of license involving grandfathered short-spaced stations only where, *inter alia*, the potential for interference between the currently short-spaced stations is not increased. In the Reynoldsburg proposal, Pearl could not satisfy that aspect of the *Newnan/Peachtree City* standard, and accordingly, its proposal was denied. *Report and Order, In the Matter of Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations (Chillicothe, Forest, Lima, New*

Washington, Peebles and Reynoldsburg, Ohio), DA 96-1331, released August 20, 1996, 61 Fed. Reg. 44288-89 (Aug. 28, 1996 ed.). Pearl appealed. On September 27, 1996, Pearl sought reconsideration of the *Report and Order*. Again Joint Commenters among others opposed Pearl's reconsideration and supplements thereto. In 1998, Pearl then sought to assign Station WKKJ(FM) to Citicasters, Co. ("Citicasters"), a multiple station owner in Columbus, Ohio, and nationwide, and a wholly-owned subsidiary of Jacor Communications Company, which in turn is a wholly-owed subsidiary of Jacor Communications, Inc. ("Jacor"). Joint Commenters, *inter alia*, opposed the assignment, which was subsequently withdrawn by Pearl and Citicasters in the summer of 1998, due to Jacor's required compliance with the antitrust concerns raised by the United States Department of Justice. A copy of the Department of Justice's press release issued August 10, 1998 is attached hereto as Appendix D. As the press release reflects, Secret acquired Jacor's rights to acquire Station WKKJ(FM) at Chillicothe from Pearl. In December 1998, a minor modification application was filed specifying the coordinates which are now contained in the issued Station WKKJ(FM) construction permit. According to filings submitted by Secret, Secret consummated the purchase of Station WKKJ(FM) in spring of 1999 and shortly thereafter petitioned the Commission with the instant Ashville rulemaking. As noted above, in August, 1999, Secret sought modification of the technical parameters of its construction permit; the construction permit coordinates remain unchanged. As can be seen, Secret has orchestrated its actions to

where it is on the road to Columbus!

RECENT MOVE-IN: HILLIARD, OHIO

Moreover, Secret is not alone in its quest to reach the apparently more lucrative Columbus market. On October 29, 1999, the Commission permitted Citicasters, which is, as noted above, a multiple station owner in Columbus, to reallocate Station WZAZ-FM from Marysville to Hilliard, a community within the Columbus Urbanized area. *See Report and Order, In the Matter of Section 73.202(b), Table of Allotments, FM Broadcast Stations (Marysville and Hilliard, Ohio)*, DA 99-2378, *slip opinion* released October 29, 1999. As a Hilliard station, from a transmitter site purportedly desired by Citicasters as referenced in the *Report and Order*, Station WZAZ-FM will increase its coverage from 8.2% (as a Marysville station) to 39.4% of the Columbus Urbanized Area. *Id*, *slip op.* at ¶ 11, p. 6.

The effective date of the *Report and Order* is December 13, 1999 and Citicasters is afforded 90 days from such effective date to submit a minor modification application (FCC Form 301). Consequently, it is too early to tell whether Citicasters' intends to file an application to relocate the Station WZAZ-FM transmitter site to its purported "desired" site at 40-03-26 NL and 83-08-36 WL, as referenced in the *Report and Order*. There is absolutely every reason to believe that Citicasters' will continue to seek to cover even more than the 39.4% coverage in the Columbus Urbanized area. Even if limited to Class A status at Hilliard, it is entirely possible and no doubt likely that Station WZAZ-FM will

seek to further increase its 70 dBu signal to 85% of the Columbus Urbanized Area if its transmitter site is relocated to a site other than the purported desired site referenced in the Report and Order, for which ***absolutely no condition was imposed by the Commission restricting Citicasters' community change to such purported desired site.*** See Technical Statement of William G. Brown, Bromo Communications, Inc., attached hereto as Appendix C. The Commission must recognize this inherent unfairness of circumventing its policies and rules and appropriate rule making scrutiny.

IMPOSITION OF CONDITION TO ENSURE INTEGRITY OF FM BAND

Notwithstanding the arguments of Joint Commenters which we believe mandate the dismissal of Secret's petition and the termination of the NPRM without adoption, the Commission, if inclined to grant Secret's petition, cannot do so without first imposing a permanent condition on such grant, requiring Secret and all future licensees of Station WKKJ(FM), to operate Channel 227B from its currently authorized construction permit site (BPH-981201IA, as proposed to be modified by FCC File No. BMPH-990820IF). As previously noted, central to Secret's proposal that it complies with the Commission's policies and rules enunciated in the *Newnan and Peachtree City, Georgia* decision, *supra*, is that its proposal is premised on service being provided to Ashville from its authorized construction permit site (notwithstanding the unsuitability of such site with respect to coverage of far less than 80% of Chillicothe, since 1961, its community of license). It would turn the entire allocation process on its proverbial head if

the Commission permitted the reallocation without first requiring that such reallocation be done only if Secret's construction permit site is used. To permit otherwise invites Secret to file a further minor modification application, once the reallocation order becomes final, specifying a new transmitter site north-northwest of Asheville, thereby permitting Secret to place a signal over the principal community of Asheville *in addition to placing a 70 dBu signal over the entire Columbus Urbanized Area*. See Technical Statement of William G. Brown, Bromo Communications, Inc., attached hereto as Appendix C. This result is unconscionable based on the facts presented herein and the Commission can neither condone nor assist Secret in accomplishing this "end run."

Indeed, the Commission itself has recognized this inherent unfairness under nearly identical facts. In *Oceanside and Encinitas, California*, DA 99-1837, released September 10, 1999, the Commission imposed just such a condition. In *Oceanside*, the licensee of Station KXST(FM), like Station WKKJ(FM), was a Class B pre-1964 grandfathered station. The petitioner sought reallocation of Station KXST(FM) from Oceanside to Encinitas, both of which communities are located within the San Diego Urbanized Area. *Because no transmitter site change was sought thereby obviating the need for a Tuck³ showing and corresponding review by the Commission*, and since the petitioner met the conditions set forth in *Newnan and Peachtree City, Georgia, supra*, relative to the distance separation and interference protection requirements, the

³ *Faye and Richard Tuck*, 3 FCC Rcd 5374 (1988).

Commission granted the proposal but imposed a condition that the station's authorized transmitter location be maintained in implementing the reallocation.

Accordingly, in the event the Commission is inclined to authorize the change of community from Chillicothe to Ashville in the instant rule making proceeding, notwithstanding the objections expressed herein by Joint Commenters, **at a minimum**, it must impose the following permanent condition in the issuance of any report and order authorizing such change, which condition shall also be noted on the construction permit (and subsequently issued license authorization), in addition to any other condition the Commission may deem appropriate:

(a) Within 90 days of the effective date of this Order, the licensee shall submit to the Commission a minor change application for a construction permit (Form 301), specifying the new facility at its currently authorized construction permit site at coordinates 39-37-17 NL and 82-53-13 WL.

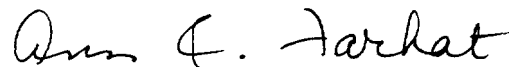
While Joint Commenters believe the Secret proposal and the prior failed proposal to move Station WKKJ(FM) from Chillicothe to Reynoldsburg -- in the heart of the Columbus market -- are anathema to the letter and spirit of the intended purposes of the Commission's statutory mandate in providing "a fair, efficient and equitable distribution of radio service" pursuant to § 307(b) of the *Communications Act of 1934, as amended*, 47 CFR § 307(b), the imposition of the permanent condition "will ensure that the integrity of the FM Band and the listening public will not be

compromised by the grant of this proposal." *Oceanside and Encinitas, California, slip op. at ¶ 6, pp. 3-4.*

CONCLUSION

For the foregoing reasons, the petition for rulemaking filed by Secret Communications II, L.L.C. proposing to reallocate Channel 227B at Chillicothe, Ohio to Ashville, Ohio should be dismissed and/or denied in its entirety and the instant rule making proceeding terminated without adoption. Alternatively, in the event the Commission is inclined to grant Secret Communications II, L.L.C.'s petition, the Commission must impose a permanent condition on such grant, requiring that Secret and all future licensees provide service on Channel 227B from Secret's currently authorized construction permit site (FCC File No. BPH-981201IA, as proposed to be modified by FCC File No. BMPH-990820IF).

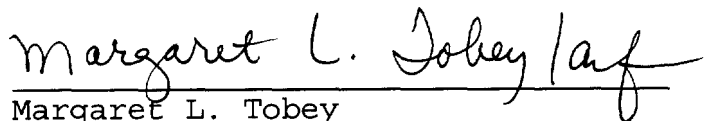
Respectfully submitted,



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On behalf of North American
Broadcasting, Co.
WLCT Radio Incorporated
Franklin Communications, Inc.

December 20, 1999

Appendix A

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Check out Columbus

Get Traffic Results for

Columbus

From

Enter an Address or Intersection (optional)

City

Ashville

State/Province

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To

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Total Distance:

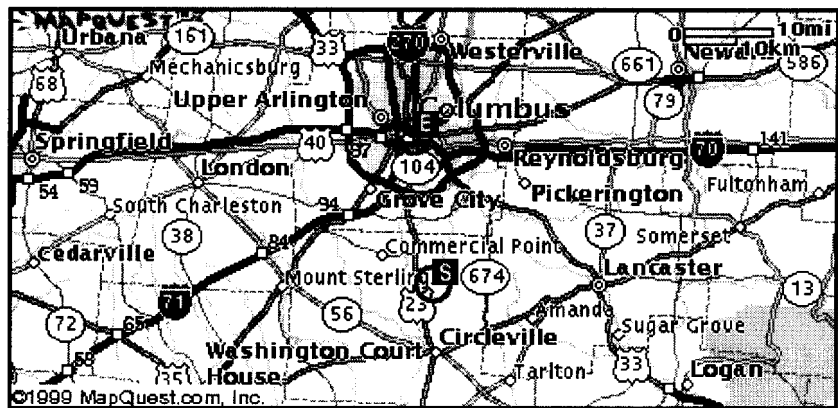
20.2 miles (32.6 km)

Total Estimated Time:

27 minutes

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Start:

Ashville, OH

Destination:

Columbus, OH

Display Directions with:

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Display New Results

Directions

1: Go North on US-23 towards Columbus, OH to I-270.

2: Go West on I-270 to I-71 NORTH (Exit 55).

3: Go North on I-71 NORTH to US-23 (Exit 100).

4: Go Northwest on US-23.

Distance

11.6 miles
(18.7 km)

2.0 miles
(3.2 km)

5.9 miles
(9.5 km)

0.7 miles
(1.1 km)

Total Distance: 20.2 miles (32.6 km)

Total Estimated Time: 27 minutes



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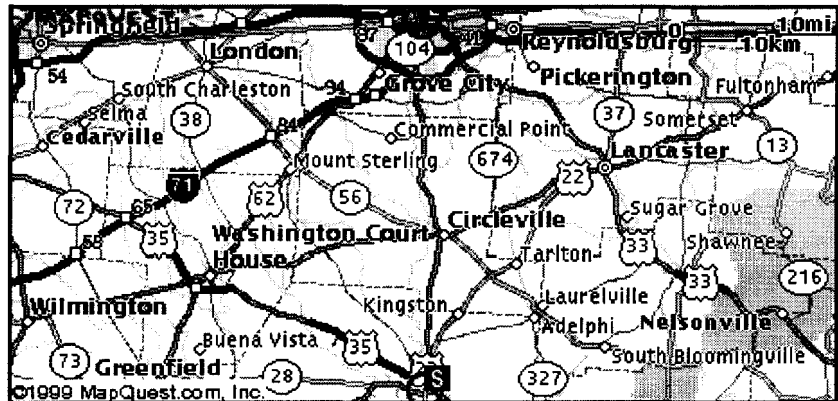
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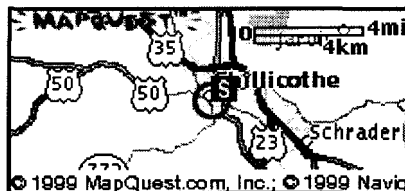
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Directions

Directions	Distance
1: Go Northwest on OH-159 to US-35.	1.0 miles (1.6 km)
2: Go East on US-35 to US-23.	0.7 miles (1.1 km)
3: Go North on US-23 towards Columbus, OH to I-270.	37.0 miles (59.5 km)
4: Go West on I-270 to I-71 NORTH (Exit 55).	2.0 miles (3.2 km)
5: Go North on I-71 NORTH to US-23 (Exit 100).	5.9 miles (9.5 km)
6: Go Northwest on US-23.	0.7 miles (1.1 km)
Total Distance:	47.3 miles (76.1 km)
Total Estimated Time:	1 hour, 7 minutes



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Appendix B

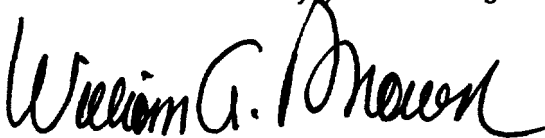
TECHNICAL STATEMENT
Secret Communications II, L.L.C.
WKKJ Construction Permit & Modification
Channel 227B - 19.5 kW - CORAMSL 267m
Chillicothe, Ohio

This Technical Statement concerns the Construction Permit (*BPH-981201IA*) and a Modification of the Construction Permit (*BMPH-990820IF*) filed by the Secret Communications II, L.L.C., licensee of WKKJ Channel 227B at Chillicothe, Ohio. Our study shows that neither the WKKJ Construction Permit nor the more recent Modification of the Construction Permit meets the provisions of Section 73.315 of the Commission's Rules concerning the coverage of the city of license with a 3.16 mV/m (70 dBu) contour.

Our study shows the actual coverage of the city is 59%, which is less than the required minimum of 80% coverage of the city.

Exhibit #1 shows the overall proposed 70 dBu (3.16 mV/m) contour. Exhibit #2 shows the detail of the Chillicothe corporate limits and the WKKJ proposed 70 dBu contour. We determined the current corporate limits directly from a city map, which was provided by the Chillicothe City Engineering Department. These limits were then transposed onto two USGS 7.5 minute topographic maps (*Chillicothe West and Chillicothe East*). The limits provided by the City of Chillicothe are virtually identical to those shown on the topographic map. These topographic maps were photorevised in 1981 and 1985. The City of Chillicothe map is the latest version available.

The 59% "city grade" coverage of the city was determined by the use of a polar planimeter.



William G. Brown

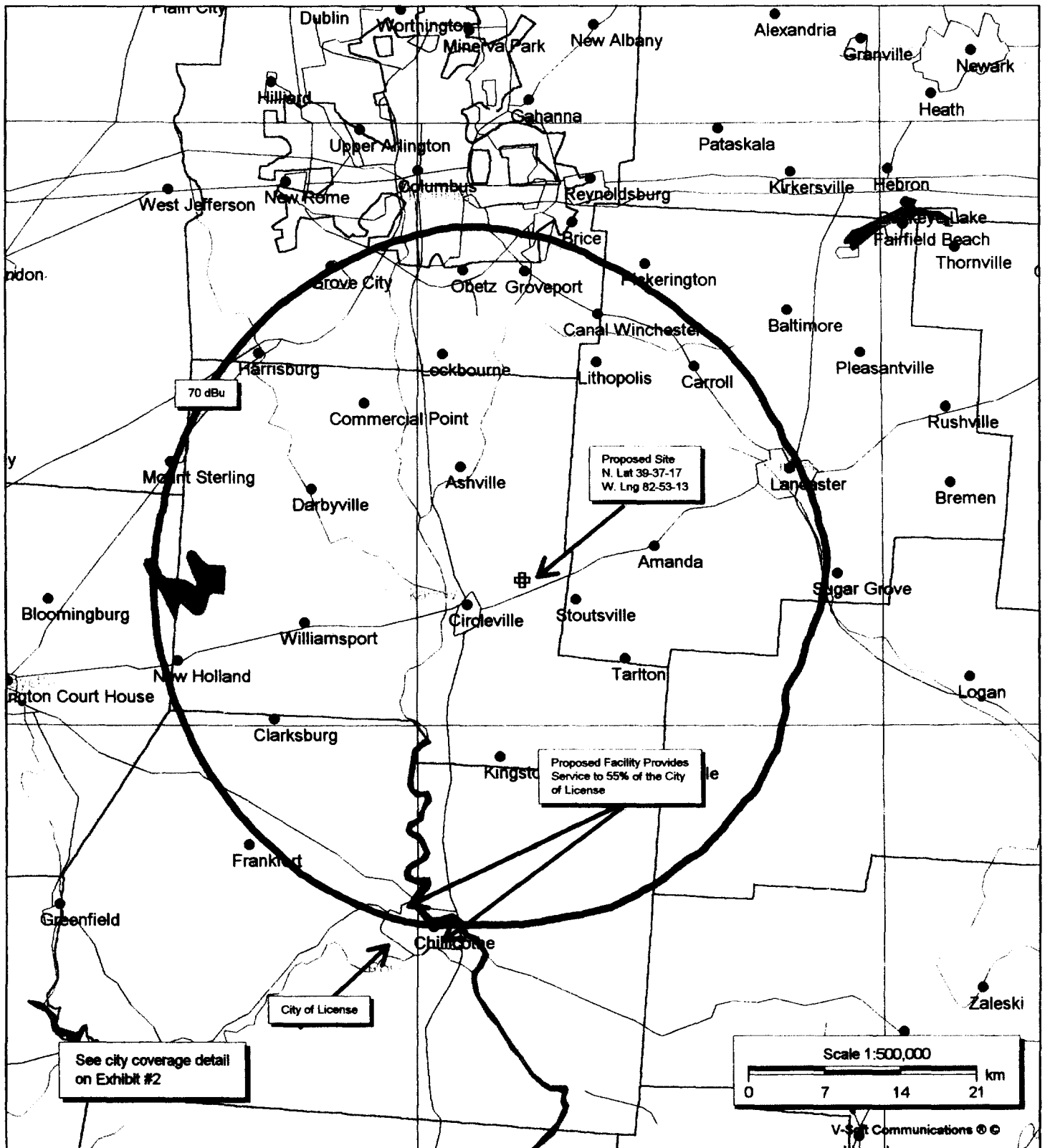


EXHIBIT #1
TECHNICAL STATEMENT
WKKJ Application
Channel 227B - 19.5 kW - CORAMSL 267m
Chillicothe, Ohio

Bromo Communications, Inc.
Atlanta, Georgia
November 1999

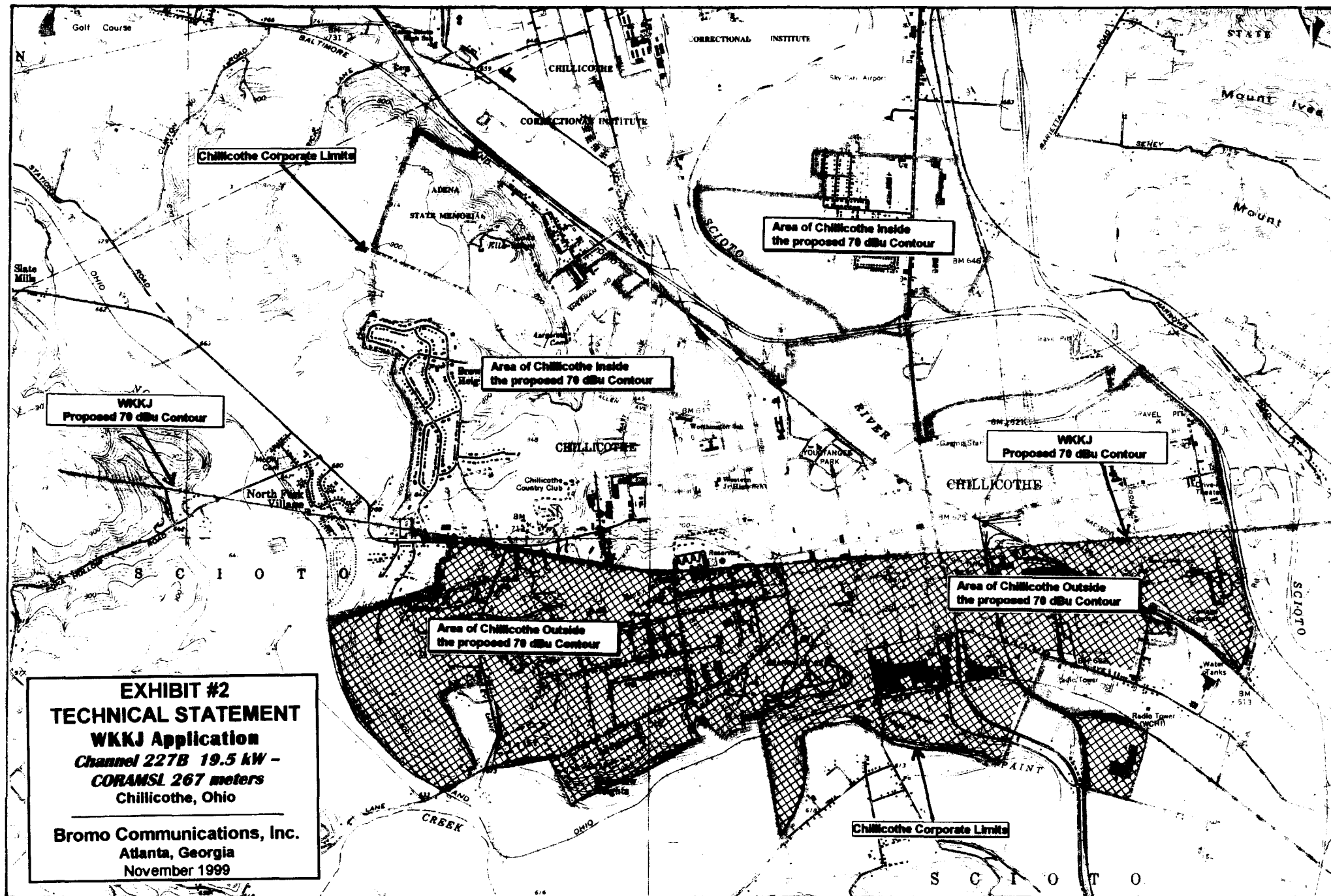


EXHIBIT #2
TECHNICAL STATEMENT
WKKJ Application
Channel 227B 19.5 kW -
CORAMSL 267 meters
Chillicothe, Ohio

Bromo Communications, Inc.
Atlanta, Georgia
November 1999

Appendix C

**TECHNICAL STATEMENT
PROPOSED RULEMAKING
Assign Channel 227A
Ashville, Ohio**

This Technical Exhibit provides comments to the proposal by Secret Communications II, LLC ("Secret") to substitute Channel 227B at Chillicothe, Ohio for Channel 227B at Ashville, Ohio and order WKKJ to move to the new community (RM-9762). Ashville is located 42.6 km north of Chillicothe and is 27.5 km south of Columbus, Ohio. Chillicothe is located 69.8 km south of Columbus.

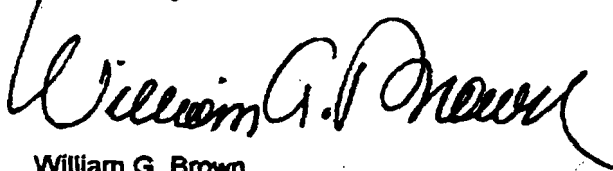
The WKKJ Construction Permit Site is the same as the proposed allocation site at Ashville. This site is 7.3 km south of Asheville and 24.313 km south of Columbus.

WKKJ on Channel 227B can re-locate to a site just west of the center of Columbus. We used and example of North Latitude 39° 56' 46" and West Longitude 83° 00' 51" This site is located 6 km west of the center of Columbus and meets the provisions of Section 73.207 of the Commission's Spacing Rules. This site as well as the present licensed and Construction Permit sites are considered a grandfathered shortspaced under the provisions of Section 73.213 to WAKW at Cincinnati. From this site or the many potential sites nearby the shortspace will be reduced and no additional interference will be created to WAKW. Under the provisions of Section 73.215 of the Commission's Rules WKKJ has additional site availability.

Secret can locate WKKJ on this site provide city grade service to its new community of license and city grade 100% of the Columbus Urbanized Area. This site is shown on the enclosed Exhibit #1.

In comparison WZAZ Channel 289A at Marysville, Ohio was recently reassigned to the community of Hilliard, Ohio (RM-9291). If we assume a hypothetical reference site of North Latitude 39° 58' 22" and West Longitude 83° 00' 51" the new WZAZ 70 dBu contour will be placed over their new community of license and most (85%) of the urbanized area of Columbus, Ohio. At this point the Commission's database does not list an application for Channel 289A at Hilliard. The hypothetical site we have chosen meets the provisions of Section 73.207 (*Section 73.215 will afford additional flexibility for the WZAZ site selection*) of the Commission's FM spacing rules. We show this example as Exhibit #2.

The undersigned is the President of Bromo Communications, Inc. a technical consulting firm which provides technical consultation to broadcast clients nation wide. The qualifications of the firm and the undersigned have been a matter of record with the Commission for over 25 years.



William G. Brown

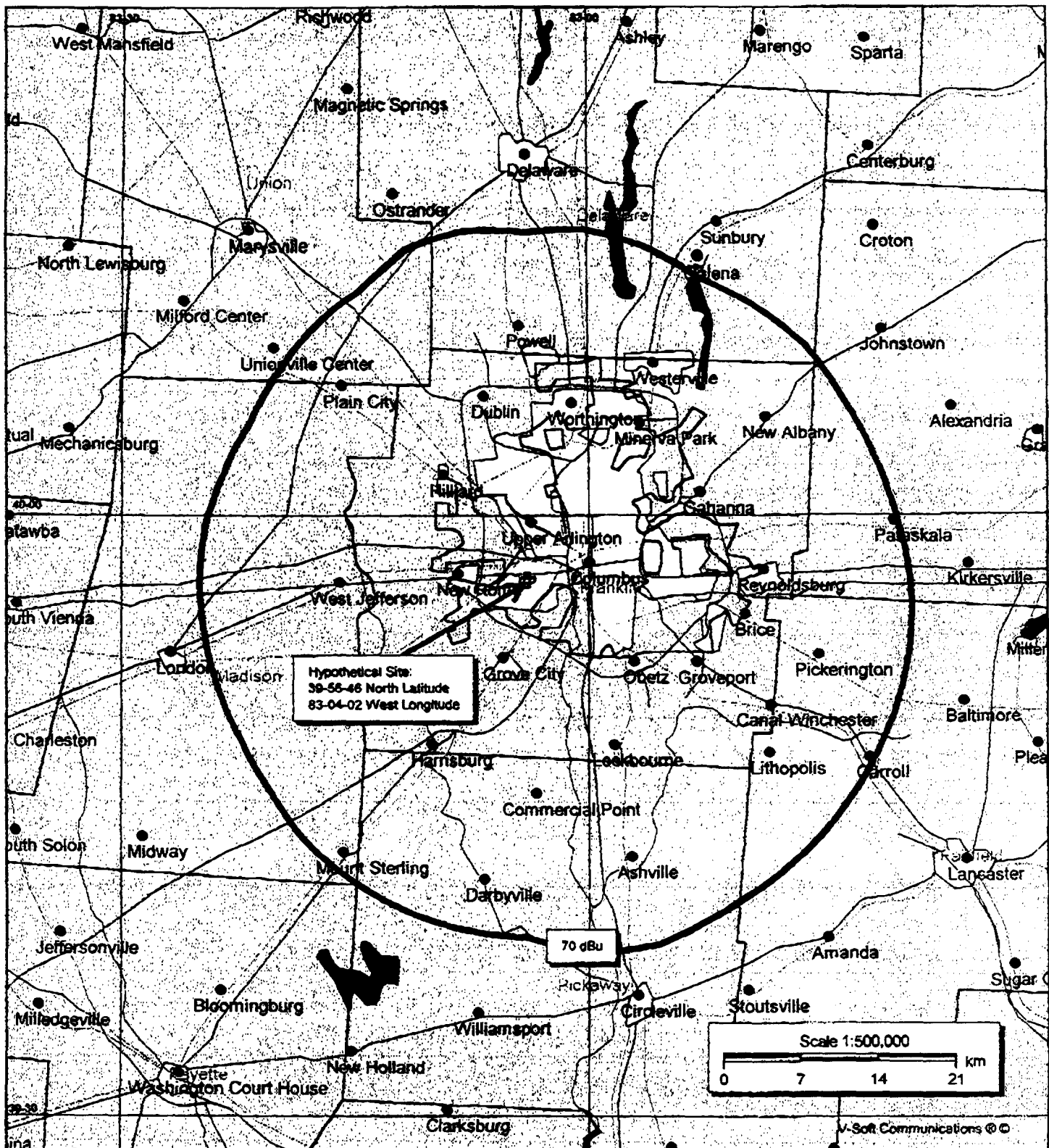


EXHIBIT #1
PROPOSED COVERAGE FOR CHANNEL 227B
FROM HYPOTHETICAL SITE
Ashville, Ohio

Bromo Communications, Inc.
 Atlanta, Georgia
 December 1999

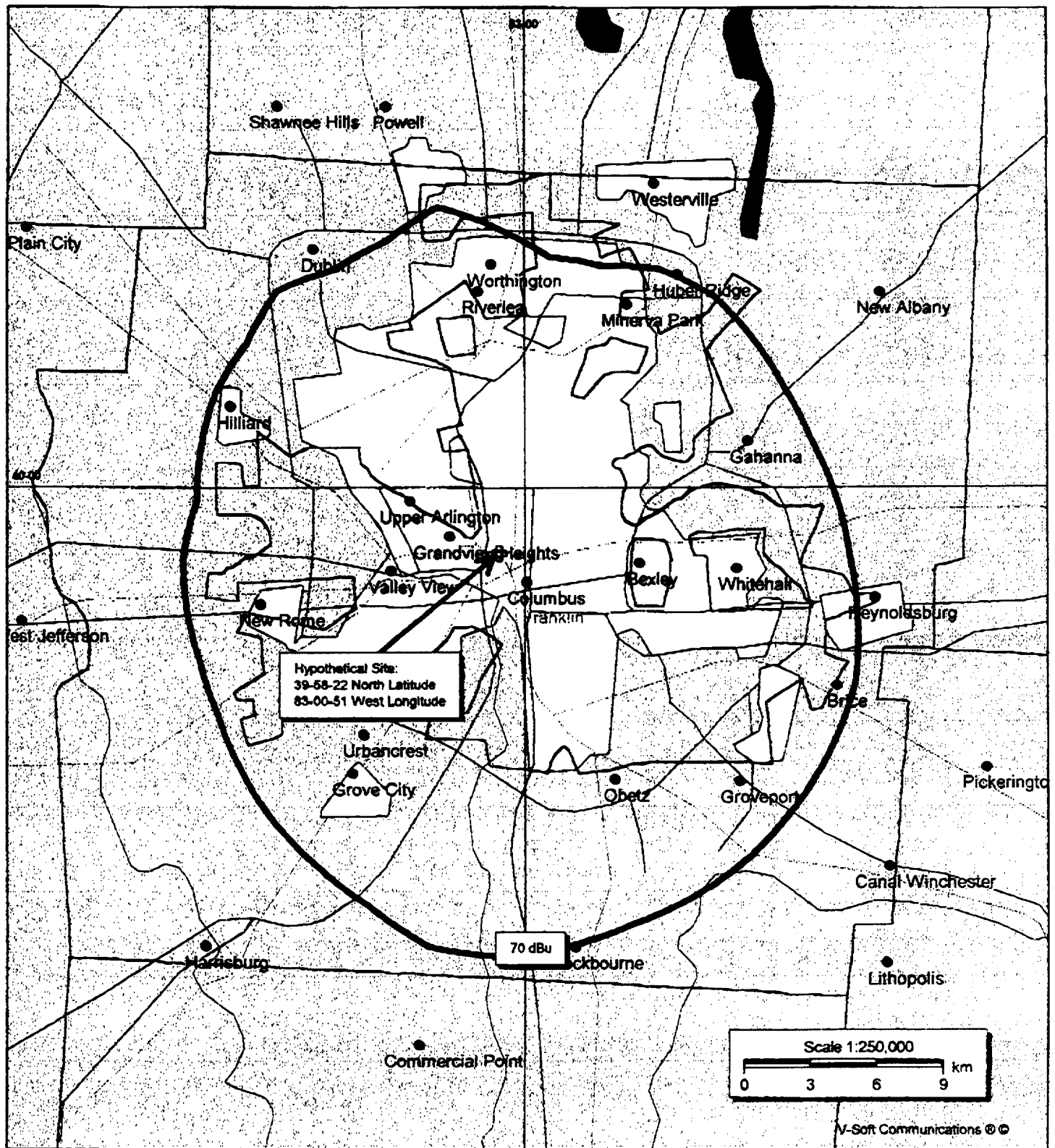


EXHIBIT #2
PROPOSED COVERAGE FOR CHANNEL 289A
FROM HYPOTHETICAL SITE
Hilliard, Ohio

Bromo Communications, Inc.
 Atlanta, Georgia
 December 1999

Download the wp51 version here.



Department of Justice

FOR IMMEDIATE RELEASE
MONDAY, AUGUST 10, 1998

AT
(202) 616-2771
TDD (202) 514-2888

**JUSTICE DEPARTMENT REQUIRES
JACOR TO SELL EIGHT RADIO STATIONS
AS PART OF NATIONWIDE COMMUNICATIONS INC. ACQUISITION**

**Radio Stations in San Diego, Cleveland and Columbus, Ohio
Must be Sold to Alleviate Antitrust Concerns**

WASHINGTON, D.C. -- The Department of Justice reached a settlement today with Jacor Communications Inc. allowing the company to go forward with its \$620 million acquisition of Nationwide Communications Inc. as long as Jacor sells off eight radio stations--two in San Diego, one in Cleveland, and five in Columbus, Ohio. The Department said that, without the divestitures, the acquisition would have significantly reduced competition in those cities.

If the deal were approved as originally proposed, Jacor would have had control of 12 stations in San Diego, accounting for 42 percent of the radio advertising revenue. In Cleveland, Jacor would have owned six radio stations with 43 percent of the radio advertising revenue. In Columbus, with nine radio stations, Jacor would have had 58 percent of the radio advertising revenue. The Department's Antitrust Division and the Ohio Attorney General's Office conducted a joint investigation into Jacor's acquisition of Nationwide.

"The divestitures will preserve the choices available to advertisers in the San Diego, Cleveland, and Columbus markets," said Joel I. Klein, Assistant Attorney General in charge of the Department's Antitrust Division.

Jacor is addressing the Department's competitive concerns by selling or swapping radio stations with several different companies. Jacor is using a fix-it-first remedy, which means they will complete the sales before acquiring Nationwide.

The two San Diego stations, KKLQ-FM and KJQY-FM, will be sold to Dallas-based Heftel Broadcasting Corporation. Jacor will swap WKNR-AM in Cleveland for WTAE-AM in Pittsburgh, currently owned by Austin, Texas-based Capstar Broadcasting Partners. In Columbus, Jacor will sell WZAZ-FM to Cincinnati-based Blue Chip Broadcasting. Jacor has also agreed to sell their right to acquire WKKJ-FM of Chillicothe, Ohio, to Cincinnati-based Secret Communications LLC.

Jacor will also swap three Columbus stations and two stations in Minneapolis-St. Paul with New York-based CBS Radio Station Group. In return, Jacor will receive two Baltimore stations, two St. Louis stations, and two San Jose, California stations from CBS. Jacor's swap with CBS will give CBS WHOK-FM, WLVQ-FM, and WAZU-FM in Columbus and WMJZ-FM and KSGS-AM in Minneapolis-St. Paul. Jacor will receive WOCT-FM and WCAO-AM in Baltimore, KSD-FM and KLOU-FM in St. Louis, and KOME-FM and KUFX-FM in San Jose.

According to industry estimates, the divestitures will reduce Jacor's revenue share to approximately 39 percent in Cleveland, 36 percent in San Diego, and 38 percent in Columbus.

Jacor, headquartered in Covington, Kentucky, currently owns and operates 197 radio stations in 55 markets in the U.S. In 1997, its revenues were approximately \$600 million.

Nationwide, headquartered in Columbus, Ohio, owns or operates 17 radio stations located in 11 metropolitan areas across the U.S. Nationwide's 1997 radio revenues were approximately \$113 million.

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98-362

CERTIFICATE OF SERVICE

Ann C. Farhat, a member of the firm of Bechtel & Cole Chartered, hereby certifies that she has caused copies of the foregoing Comments and Objections of Joint Parties to be sent by United States first class mail, postage prepaid, this 20th day of December, 1999, to:

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Jason S. Roberts, Esquire
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Ann C. Farhat